

OCA FILE

8 August 1988
OCA 2644-88

MEMORANDUM FOR: Chief, Technology Transfer Assessment
Center/TTAC
Chief, Intelligence Community Affairs/OGC

FROM: [redacted] Legislation Division
Office of Congressional Affairs

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SUBJECT: Trade Bill and National Security Export
Controls

1. The House and Senate have recently passed the Omnibus Trade and Competitiveness Act of 1988, which the President is expected to sign into law in the near future. You should be aware of a section of the bill which sets forth certain requirements of the Agency as related to export administration.

2. Section 2433 of the bill (attached) requires the Secretaries of Commerce and Defense to arrange with the National Academy of Sciences and the National Academy of Engineering to study the adequacy of the export administration system in safeguarding national security while maintaining competitiveness. The Director of Central Intelligence, among others, is required to

furnish to the Academies, upon request and under appropriate safeguards, classified or unclassified information which the Academies determine to be necessary for the purposes of conducting the study required by this section; and

[to] work with the Academies on such problems related to the study as the Academies consider necessary.

The Academies are then required to prepare and submit to the President and the Congress a report containing a detailed statement of their findings and conclusions, along with recommendations for legislative or regulatory reforms.

3. If you have any questions, please telephone me on

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Attachment

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OCA/LEG, [] (8 August 1988)

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1 ports to the Committee on Foreign Affairs of the House of
2 Representatives and the Committee on Banking, Housing,
3 and Urban Affairs of the Senate.

4 SEC. 2433. STUDY ON NATIONAL SECURITY EXPORT CON-
5 TROLS.

6 (a) ARRANGEMENTS FOR AND CONTENTS OF
7 STUDY.—

8 (1) ARRANGEMENTS FOR CONDUCTING STUDY.—

9 The Secretary of Commerce and the Secretary of De-
10 fense, not later than 60 days after the date of the en-
11 actment of this Act, shall enter into appropriate ar-
12 rangements with the National Academy of Sciences
13 and the National Academy of Engineering (hereafter in
14 this section referred to as the "Academies") to conduct
15 a comprehensive study of the adequacy of the current
16 export administration system in safeguarding United
17 States national security while maintaining United
18 States international competitiveness and Western tech-
19 nological preeminence.

20 (2) REQUIREMENTS OF STUDY.—Recognizing the
21 need to minimize the disruption of United States trad-
22 ing interests while preventing Western technology from
23 enhancing the development of the military capabilities
24 of controlled countries, the study shall—

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1 (A) identify those goods and technologies
2 which are likely to make crucial differences in the
3 military capabilities of controlled countries, and
4 identify which of those goods and technologies
5 controlled countries already possess or are avail-
6 able to controlled countries from other sources;

7 (B) develop implementable criteria by which
8 to define those goods and technologies;

9 (C) demonstrate how such criteria would be
10 applied to the control list by the relevant agencies
11 to revise the list, eliminate ineffective controls,
12 and strengthen controls;

13 (D) develop proposals to improve United
14 States and multilateral assessments of foreign
15 availability of goods and technology subject to
16 export controls; and

17 (E) develop proposals to improve the admin-
18 istration of the export control program, including
19 procedures to ensure timely, predictable, and
20 effective decisionmaking.

21 (b) ADVISORY PANEL.—In conducting the study under
22 subsection (a), the Academies shall appoint an Advisory
23 Panel of not more than 24 members who shall be selected
24 from among individuals in private life who, by virtue of their
25 experience and expertise, are knowledgeable in relevant sci-

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1 entific, business, legal, or administrative matters. No individ-
2 ual may be selected as a member who, at the time of his or
3 her appointment, is an elected or appointed official or em-
4 ployee in the executive, legislative, or judicial branch of the
5 Government. In selecting members of the Advisory Panel,
6 the Academies shall seek suggestions from the President, the
7 Congress, and representatives of industry and the academic
8 community.

9 (c) EXECUTIVE BRANCH COOPERATION.—The Secre-
10 tary of Commerce, the Secretary of Defense, the Secretary of
11 State, the Director of the Central Intelligence Agency, and
12 the head of any department or agency that exercises author-
13 ity in export administration—

14 (1) shall furnish to the Academies, upon request
15 and under appropriate safeguards, classified or unclas-
16 sified information which the Academies determine to be
17 necessary for the purposes of conducting the study re-
18 quired by this section; and

19 (2) shall work with the Academies on such prob-
20 lems related to the study as the Academies consider
21 necessary.

22 (d) REPORT.—Under the direction of the Advisory
23 Panel, the Academies shall prepare and submit to the Presi-
24 dent and the Congress, not later than 18 months after enter-
25 ing into the arrangements referred to in subsection (a), a

1 report which contains a detailed statement of the findings and
2 conclusions of the Academies pursuant to the study conduct-
3 ed under subsection (a), together with their recommendations
4 for such legislative or regulatory reforms as they consider
5 appropriate.

6 (e) AUTHORIZATION OF APPROPRIATIONS.—There are
7 authorized to be appropriated \$900,000 to carry out this
8 section.

9 **PART II—MULTILATERAL EXPORT CONTROL**
10 **ENHANCEMENT**

11 **SEC. 2441. SHORT TITLE.**

12 This part may be cited as the “Multilateral Export Con-
13 trol Enhancement Amendments Act”.

14 **SEC. 2442. FINDINGS.**

15 The Congress makes the following findings:

16 (1) The diversion of advanced milling machinery
17 to the Soviet Union by the Toshiba Machine Company
18 and Kongsberg Trading Company has had a serious
19 impact on United States and Western security
20 interests.

21 (2) United States and Western security is under-
22 mined without the cooperation of the governments and
23 nationals of all countries participating in the group
24 known as the Coordinating Committee (hereafter in